

FILE COPY.

FILED
MAY 16 1903
JAMES H. MCKENNEY
CLERK

In the Supreme Court of the United States.

OCTOBER TERM, 1903.

SAMUEL M. GLEATE, PLAINTIFF IN ERROR,
v.
THE UNITED STATES. } No. [illegible]

UPON CERTIFICATE OF THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

MOTION TO ADVANCE.

In the Supreme Court of the United States.

OCTOBER TERM, 1903.

SAMUEL M. CLYATT, PLAINTIFF IN ERROR,
v.
THE UNITED STATES. } No. 659.

UPON CERTIFICATE OF THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

MOTION TO ADVANCE.

On November 21, 1901, Samuel M. Clyatt was indicted in the United States circuit court for the northern district of Florida for a violation of sections 1990 and 5526 of the Revised Statutes of the United States, known as the Peonage Statutes. The defendant was thereafter tried and convicted upon said indictment, and sentenced to four years' imprisonment in the penitentiary. Afterwards, on March 27, 1902, the defendant applied for and obtained a writ of error from the United States circuit court of appeals for the fifth circuit.

The cause was thereafter argued by counsel for both sides in the circuit court of appeals for the fifth circuit.

Whereupon that court certified three questions to the Supreme Court, as follows:

> 1. Is the act of unlawfully and forcibly arresting and returning a person to the custody and control of such person's creditor, to be by him held against the will of the debtor, to labor to pay the debt, a violation of the laws of the United States within the meaning of section 5526 of the Revised Statutes of the United States?
>
> 2. Is the act of unlawfully and forcibly arresting and returning a person to the custody and control of such person's creditor to be by him held against the will of the debtor, to labor to pay the debt, a violation of the laws of the United States within the meaning of section 5526 of the Revised Statutes of the United States, when, at the time of the arrest and return of such person, there existed in the State to which he was returned to be so held no statute of the State or usage therein creating or sanctioning peonage or a system of peonage?
>
> 3. Do the acts and conduct of the defendant, as charged in the indictment, constitute the offense of holding, arresting, or returning to a condition of peonage, within the purview of section 5526 of the Revised Statutes?

Since the certification of this case to the Supreme Court several of the circuit and district courts in the fifth circuit, in which numerous prosecutions for violations of the peonage statutes are pending, have refused to try any of the cases, but have postponed them to await the decision of the court in this case.

As the case is one of general public importance, the Solicitor-General respectfully moves the court to advance it upon the docket for hearing on an early day during the next term convenient to the court.

Hereto attached will be found a copy of a telegram from opposing counsel practically consenting that the case be advanced. In view of the fact that all pending prosecutions under this statute, nearly fifty in number, have been arrested awaiting the decision in this case, we feel that the case should be heard as soon as the convenience of the court will permit.

HENRY M. HOYT,
Solicitor-General.
MILTON D. PURDY,
Assistant Attorney-General.

EXHIBITS.

A.

THE INDICTMENT.

In the circuit court of the United States for the northern district of Florida, in the fifth judicial circuit.

The grand jurors of the United States of America, empaneled and sworn within and for the district aforesaid, on their oaths present, that one Samuel M. Clyatt, heretofore, to wit: On the eleventh day of February, in the year of our Lord, one thousand nine hundred and one, in the county of Levy, State of Florida, within the district aforesaid, and within the jurisdiction of this court, did then and there, unlawfully and knowingly return one Will Gordon and one Mose Ridley to a condition of peonage by forcibly and against the will of them, the said Will Gordon and the said Mose Ridley returning them the said Will Gordon and Mose Ridley to work to and for Samuel M. Clyatt, D. T. Clyatt, and H. H. Tift, copartners doing business under the firm name and style of Clyatt and Tift, to be held by them, the said Clyatt and Tift, to work out a debt claimed to be due to them, the said Clyatt and Tift, by the said Will Gordon and Mose Ridley, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

2nd. And the grand jurors aforesaid, on their oaths aforesaid, do further present, that one Samuel M. Clyatt,

heretofore, to wit: On the eleventh day of February, in the year of our Lord, one thousand nine hundred and one, in the county of Levy, State of Florida, within the district aforesaid, and within the jurisdiction of this court, did, then and there, unlawfully and knowingly cause and aid to be returned Will Gordon and Mose Ridley to a condition of peonage, by forcibly and against the will of them, the said Will Gordon and Mose Ridley, causing and aiding them, the said Will Gordon and Mose Ridley, to be returned to work to and for Samuel M. Clyatt, D. T. Clyatt, and H. H. Tift, copartners doing business under the firm name and style of Clyatt & Tift, to work out a debt claimed to be due to them, the said Clyatt & Tift, by the said Will Gordon and Mose Ridley; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

JOHN EAGAN,
United States Attorney.

(Indorsements): A true bill, Edward B. Eppes, foreman.

B.

THE LAW.

SEC. 5526. Every person who holds, arrests, returns, or causes to be held, arrested, or returned, or in any manner aids in the arrest or return of any person to a condition of peonage, shall be punished by a fine of not less than one thousand nor more than five thousand dollars, or by imprisonment not less than one year nor more than five years, or by both.

C.

TELEGRAM FROM HON. W. G. BRANTLEY.

BRUNSWICK, GA., *May 13, 1904.*

UNITED STATES ATTORNEY-GENERAL,

Washington, D. C.:

If your motion to advance the Clyatt case for an early hearing next term does not cut off oral argument and require the case to be submitted on briefs, we have no objection to it. We have no objections to advancing the hearing, but desire to submit oral argument personally. I hope the hearing will not be had before the first Monday in December.

W. G. BRANTLEY.

O